

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

APPLIED UNDERWRITERS, INC.,)
a Nebraska Corporation)

Case No. 8:17-cv-401

Plaintiff,)

**DEFENDANT’S NOTICE OF AND
PETITION FOR REMOVAL**

vs.)

**(From the District Court of Douglas
County, Nebraska, Case No. CI 17-7821**

SEDGWICK CLAIMS MANAGEMENT)
SERVICES, INC., a Delaware)
Corporation,)

Defendant.)

**DEFENDANT SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.’S
NOTICE OF AND PETITION FOR REMOVAL**

Defendant Sedgwick Claims Management Services, Inc. (“Defendant”), by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and in accordance with the Federal Rules of Civil Procedure and Nebraska Civil Rules, hereby files this Notice of and Petition for Removal of a case from the District Court for Douglas County, Nebraska, bearing Case. No. CI 17-7821. As grounds for this removal, Defendant states the following:

BACKGROUND

1. On September 13, 2017, Plaintiff Applied Underwriters, Inc. (“Plaintiff”) commenced a civil action in the District Court of Douglas County, Nebraska bearing Case No. CI 17-7821, captioned as *Applied Underwriters, Inc. v. Sedgwick Claims Management Services, Inc.*, (the “State Court Case”) by filing a Complaint, an accurate copy of which is attached as a part of Exhibit A.

2. Plaintiff served the Summons and Complaint on Defendant by certified mail on September 19, 2017. The Return of Service Receipt is included as a part of Exhibit A.

TIMELY REMOVAL

3. This Notice of and Petition for Removal is filed within 30 days of service of the Complaint on the Defendant. Thus, removal is timely pursuant to 28 U.S.C. § 1446(b).

SUBJECT MATTER JURISDICTION

4. Pursuant to 28 U.S.C. § 1332 (a), this Court has original subject matter jurisdiction based on diversity of citizenship because (a) the amount in controversy exceeds \$75,000, exclusive of interest and costs, and (b) the dispute is between citizens of different states.

VENUE

5. Venue is proper in this Court and division pursuant to 28 U.S.C. § 1391(b). The United States District Court for the District of Nebraska is the district in which the State Court Case was filed.

STATEMENT OF FACTS DEMONSTRATING COMPLETE DIVERSITY OF PARTIES

6. The Complaint includes the following facts satisfying the jurisdictional requirement of 28 U.S.C. § 1332(a)(1) that this civil action is between citizens of different states:

a. Pursuant to 28 U.S.C. § 1332(c), a corporation is deemed a citizen of the State in which it has been incorporated and of the State where it has its principal place of business.

b. Plaintiff is a Nebraska corporation, with its principal place of business in Omaha, Nebraska. Complaint ¶ 1.

c. Defendant is incorporated under the laws of the state of Delaware. Its principal place of business is located in Memphis, Tennessee. *See* Complaint ¶ 2.

7. As Plaintiff and Defendant are citizens of different states, this case satisfies the jurisdictional requirement of 28 U.S.C. § 1332(a)(1).

AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

8. The jurisdictional amount in controversy requirement of 28 U.S.C. § 1332(a) is satisfied by the pleadings filed in the State Court Case. The Complaint alleges, among other things, that Defendant misappropriated Plaintiff's trade secrets, interfered with its contractual relationships, and unjustly benefitted from Plaintiff's extensive employee training. The Complaint does not include a demand for a specific sum. However, Plaintiff asserts eight claims and seeks compensatory damages, injunctive relief, and disgorgement of profits.

9. Pursuant to 28 U.S.C. § 1446(c)(2), Defendant asserts that the amount in controversy exceeds \$75,000.

REMOVAL JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP

10. Because this Court has original subject matter jurisdiction over this matter based on diversity of citizenship under 28 U.S.C. § 1332, Defendant may remove this matter pursuant to 28 U.S.C. § 1441, which provides for removal by defendant based on diversity jurisdiction.

11. This action is not a non-removable action as described in 28 U.S.C. § 1445.

NOTICE OF COMPLIANCE WITH PROCEDURAL REQUIREMENTS

12. An accurate copy of all process, pleadings and orders filed in connection with the State Court Case are attached as Exhibit A.

13. Pursuant to 28 U.S.C. § 1146(d), Defendant will promptly provide written notice of removal to all parties to this action, and will file a Notice of Removal with a copy of this Notice of and Petition for Removal in the District Court of Douglas County, Nebraska.

REQUEST FOR PLACE OF TRIAL

Defendant respectfully requests that trial of this action be held in Omaha, Nebraska.

WHEREFORE, Defendant respectfully requests that this Court accept the removal of this action from the State Court and direct that the District Court of Douglas County, Nebraska have no further jurisdiction of this matter.

DATED this 19th day of October, 2017.

Respectfully submitted,

SEDGWICK CLAIMS MANAGEMENT, INC.,
Defendant.

/s/ Kenneth M. Wentz III

Kenneth M. Wentz III, #23580

Catherine A. Cano #25615

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 19th, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which sent notification of such filing to the following:

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Attorney for Plaintiff

/s/ Kenneth M. Wentz III

Kenneth M. Wentz III